

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG DIVISION**

STATE OF OHIO,
STATE OF COLORADO,
STATE OF ILLINOIS,
STATE OF MINNESOTA,
STATE OF MISSISSIPPI,
STATE OF NEW YORK,
STATE OF NORTH CAROLINA,
STATE OF TENNESSEE,
COMMONWEALTH OF VIRGINIA,
STATE OF WEST VIRGINIA,
DISTRICT OF COLUMBIA, and
UNITED STATES OF AMERICA,

Civil No. 1:23-cv-100
Judge John Preston Bailey

Plaintiffs,

v.

NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION,

Defendant.

**UNITED STATES' EXPLANATION OF PROCEDURES UNDER THE ANTITRUST
PROCEDURES AND PENALTIES ACT**

The United States submits this memorandum summarizing the procedures of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) (the “APPA” or “Tunney Act”), related to the Court’s review of the Stipulation and Order and the proposed Final Judgment in this matter, which were filed at the same time as this Explanation.

1. The United States has filed a proposed Final Judgment and a Stipulation and Order, to which the United States and Defendant National Collegiate Athletic Association have agreed, and the United States has filed a Competitive Impact Statement explaining the proposed

settlement. The United States and Defendant have also agreed that the Court may enter the proposed Final Judgment after the requirements of the Tunney Act have been satisfied.

2. The United States and Defendant ask that the Court sign the Stipulation and Order as soon as possible. The Stipulation and Order will preserve competition during the Tunney Act proceedings by requiring Defendant to comply with the proposed Final Judgment while pending review by the Court.

3. The Court should not sign the proposed Final Judgment until the requirements of the Tunney Act are satisfied. The Tunney Act requires that the United States (a) publish the proposed Final Judgment and the Competitive Impact Statement in the *Federal Register* and (b) cause a summary of the terms of the proposed Final Judgment and the Competitive Impact Statement to be published in one or more newspapers at least 60 days before the Court signs the proposed Final Judgment. The newspaper notice(s) will inform the public how to submit comments about the proposed Final Judgment to the United States Department of Justice's Antitrust Division. Defendant in this matter has agreed to arrange and pay for the required newspaper notice(s).

4. Members of the public who wish to submit comments will be invited to do so within 60 days following publication in the *Federal Register* and of the newspaper notice(s). The United States will prepare a response to any comments received during this period and will (a) file with the Court the comments and the United States' response and (b) publish the comments and the United States' response in the *Federal Register* unless this Court authorizes an alternative method of public dissemination of the public comments and the response to those comments pursuant to the Tunney Act, 15 U.S.C. § 16(d). After the comments and the United States' response have been filed with the Court and published, the United States may move the

Court to enter the proposed Final Judgment unless the United States has withdrawn its consent to entry of the Final Judgment, as permitted by Paragraph II.A of the Stipulation and Order.

5. If the United States moves the Court to enter the proposed Final Judgment after compliance with the Tunney Act, the Court may enter the Final Judgment without a hearing if the Court concludes that the Final Judgment is in the public interest.

Dated: May 30, 2024

Respectfully Submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA:

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**pro hac vice*